

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

**YOLANI A. REYES, personal representative
for the estate of Saul Guzman-Arias,**

No. 3:16-cv-01517-AC

Plaintiff,

OPINION AND ORDER

v.

UNITED STATES OF AMERICA,

Defendant.

MOSMAN, J.,

On March 16, 2017, Magistrate Judge John V. Acosta issued his Findings and Recommendation (“F&R”) [31], recommending that Defendant’s Motion to Dismiss [14] should be DENIED. No objections to the F&R were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Acosta's recommendation and ADOPT the F&R [31] as my own opinion. Accordingly, I DENY Defendant's Motion to Dismiss [14].

IT IS SO ORDERED.

DATED this 11th day of May, 2017.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
Chief United States District Judge